

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

DANIEL J. PARKE and DAVID A. WIEBELHAUS
Junior Party
(Application 11/250,543),

v.

DAVID WIEKHORST, SPRING STUTZMAN,
JEFF STUTZMAN, SCOTT JUENGST, FRED JOHNSTON,
JIM L. DICKMAN and ROBERT KENNY
Senior Party
(Patent 7,238,886).

Patent Interference No. 105,640 (SCM)
(Technology Center 2800)

Judgment –Bd.R. 127(b)(4)

*Before: JAMESON LEE, SALLY C. MEDLEY, and MICHAEL P. TIERNEY,
Administrative Patent Judges.*

MEDLEY, *Administrative Patent Judge.*

A. Introduction

Interference 105,640 was declared on 24 June 2008. No papers have been
filed on behalf of the junior party Parke as required by Board Rules and the

1 Standing Order.¹ Moreover, Parke has not timely filed a response to the Order to
2 Show Cause (Paper 3).

3 On 22 July 2008, Board personnel, Sonja Despertt, telephoned Mr. Scott
4 Lowe, counsel of record for Parke to inquire why Parke had not filed their initial
5 papers and a response to the Order to Show Cause. Mr. Lowe informed Ms.
6 Despertt that Parke will not file any papers or respond in any way to the Order to
7 Show Cause. Mr. Lowe's representation that Parke will not respond to the Order
8 to Show Cause is an abandonment of the contest. An abandonment of the contest
9 is construed as a request for adverse judgment. Bd. R. 127(b)(4).

10 Accordingly, it is

11 **ORDERED** that judgment be entered against Parke for count 1 (Paper
12 1 at 4);

13 **FURTHER ORDERED** that claims 67-73 of Parke's involved
14 application are FINALLY REFUSED, 35 U.S.C. 135(a); and

15 **FURTHER ORDERED** that a copy of this judgment be entered in
16 the administrative records of the involved Parke application and Wiekhorst patent.

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1 Within 14 days of the date of declaration, the parties must file:

- (1) notice of lead and backup counsel (Bd.R. 108(b))
- (2) a clean copy of claims (Bd.R. 110(a))
- (3) notice of real party-in-interest (SO ¶ 8.1)
- (4) notice of related proceedings (SO ¶ 8.2)
- (5) a request for file copies (SO ¶ 109)

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4
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